

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION**

JOHN BROWN

PETITIONER

V.

NO. 4:19-CV-176-DMB-RP

STATE OF MISSISSIPPI

RESPONDENT

ORDER

On March 27, 2020, United States Magistrate Judge Roy Percy issued a Report and Recommendation (“R&R”) recommending that the State of Mississippi’s motion to dismiss John Brown’s petition for a writ of habeas corpus be granted and that the petition be dismissed without prejudice for failure to exhaust state court remedies. Doc. #14 at 4. The R&R further recommends that a certificate of appealability be denied. *Id.* Neither party has filed objections to the R&R.

Under 28 U.S.C § 636(b)(1)(C), “[a] judge of the court shall make a de novo determination of those portions of the report ... to which objection is made.” “[W]here there is no objection, the Court need only determine whether the report and recommendation is clearly erroneous or contrary to law.” *United States v. Alaniz*, 278 F. Supp. 3d 944, 948 (S.D. Tex. 2017) (citing *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989)).

The Court has reviewed the R&R and concluded that the recommendations are neither clearly erroneous nor contrary to law. Accordingly, the R&R [14] is **ADOPTED** as the order of the Court. The State’s motion to dismiss [12] is **GRANTED**. Brown’s petition for a writ of habeas corpus [1] is **DISMISSED without prejudice** for failure to exhaust. A certificate of appealability is **DENIED**. A final judgment will issue separately.

SO ORDERED, this 5th day of June, 2020.

/s/Debra M. Brown
UNITED STATES DISTRICT JUDGE